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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,190	03/01/2001	Andrew George Silver	U 013288-1	6267

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NEW YORK, NY 10023

EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 04/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/786,190

Applicant(s)

Silver

Examiner
Vanaman

Art Unit
3618



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 6, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-38 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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Status of Application

1. Applicant's amendment, filed Feb. 6, 2003, has been entered in the application. Newly added claims 22-38 are pending, claims 1-21 having been canceled by the amendment.

Claim Objections

2. Claim 35 is objected to because of the following informality: in claim 35, line 2, it appears as though there is a word missing between "member" and "one". Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. Claims 23 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 23, the portion of the alternative recitation of the footrest being on the rear ski appears to contradict claim 22 at lines 10-12, which recites the footrest as being between the rear ski and the seat, and not on the rear ski. In claim 34, it is not entirely clear if the recitation of the attachment of the rear ski and 'frame means' is a modification of the attachment recited in claim 22, lines 7-9 or a further attachment.

Claim Rejections - 35 USC § 103

4. The appropriate citation of 35 U.S.C. 103 relied upon herein may be found in the previous office action.
5. Claims 22-34 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porsche et al. (US 3,771,807, cited previously) in view of Dulski (US 2,883,205, cited previously). Porsche et al. teach a ski bike including a seat (3) a steering means (1, 2, 4) including an upper pair of handlebars (30) which may accommodate a tow assembly of greater width than the handlebars and a forward ski (5) pivotally connected to the frame by a single fork member, a

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frame including first and second portions (10, 10'), both of which support the seat, connected to a third portion (11, 12) which is parallel to a rear ski (8), the rear ski being connected to the frame by pivotal connections (6, 7) and a suspension means (9), the front and rear skis having the same width (figure 2), the front ends of the first and second frames being connected to the steering headset (2), the rear ends being connected to an upwardly oriented portion (12) of the third frame portion. The reference to Porsche et al. fails to teach a footrest extending from the frame on either side of the frame, constituting a pair of foot engaging portions.

Dulski teaches a ski-bike having a frame supplied with a footrest (42) located between the seat and rear ski, having left and right foot supporting portions extending on either side of the frame (e.g., 13, 14). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a footrest as taught by Dulski on the frame of the bike taught by Porsche et al., between the seat and rear ski, for the purpose of allowing a user's feet to be supported when coasting.

As regards claim 27, while the reference of Porsche et al. as modified by Dulski fails to teach the pivotal connections (6, 7) being located adjacent the ends of the third frame portion (e.g., the ends of 11), it would not have been considered to be beyond the skill of the ordinary practitioner to adjust the locations of the pivots, for example for the purpose of adjusting the degree and characteristics of displacement of the rear ski.

As regards claim 30, it is old and well known to duplicate a part in order to provide enhanced operation of the part, and as such, It would have been obvious to one of ordinary skill in the art at the time of the invention to duplicate the fork portion taught by Porsche et al., as modified by Dulski, providing a pair of fork portions, for the purpose of providing a more secure connection between the steering means and the front ski.

As regards claim 37, to provide an abrasive foot accommodating portion on a footrest for the purpose of enhancing traction is old and well known, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide an abrasive surface to the

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top portions of the footrest taught by the modifying reference of Dulski for the purpose of improving traction and providing an improved gripping surface for the user.

6. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porsche et al. in view of Dulski and Laycraft (US 4,097,055, cited previously). The references of Porsche et al. and Dulski are discussed above, and fail to teach the attachment of the steering means and forward ski by a suspension member which damps pivotal motion. Laycraft teaches a snow bike having a front ski (23) connected to a front fork (20) with a suspension mechanism comprising a pivotal connection (at 22) and a damper (24, 25, 26).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the connection between the front fork and front ski of the bike of Porsche et al. as modified by Dulski with a damping suspension mechanism as taught by Laycraft for the purpose of reducing vibrations transmitted to the user, facilitating a smoother ride.

7. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Porsche et al. in view of Dulski and Muller et al. (US 4,305,603, cited previously). The references of Porsche et al. and Dulski are discussed above, and fail to teach the rear ski as having a rear portion which is wider than the remainder of the ski, which has a substantially constant width. Muller et al. teach a gliding board having a forward section with a substantially constant width, and a wider rear section (6). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the rear ski of the bike of Porsche et al. as modified by Dulski with a widened section, as taught by Muller et al., for the purpose of adjusting the gliding characteristic of the bike.

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Response to Comments

8. Applicant's comments have been carefully considered. As regards the reference of Dulski not teaching a pivotal connection of the rear ski to the frame, the examiner agrees. Note that the rejections using the reference to Dulski as a *base reference* have been withdrawn. Applicant's comments concerning the remaining cited prior art references are not correct. Note Porsche et al. (applied above), Doran-Webb, and Crnogorac, all of which were previously cited by the examiner as being pertinent to the disclosure, and all of which teach a pivotal connection between the rear ski and the frame of various ski bikes. See paragraph 15 of the previous office action, which clearly cites to these references.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop ____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or faxed to :

(703) 305-3597 or 305-7687 (for formal communications intended for entry;
informal or draft communications may be faxed to the same number but should be
clearly labeled "UNOFFICIAL" or "DRAFT")

The Office has also established electronic fax servers for Technology Center 3600 as follows:

703-872-9326 (Official communications)
703-872-9327 (Official After Final communications)
703-872-9325 (Customer Service)

F. VANAMAN
Primary Examiner
Art Unit 3618

F. Vanaman
April 16, 2003



4/16/03